



***Board of Zoning Appeals Public Hearing
June 21, 2011 —7:00 P.M***

CASE NUMBER:	V-11-024
PROPERTY LOCATION:	3100 Haynesbrooke Lane, Johns Creek, GA 30022 1st District, 2nd Section Land Lot 867
CURRENT ZONING:	TR Conditional (Townhouse Residential District)
PARCEL SIZE:	0.197 Acres
PROPERTY OWNER:	1699 Land Company, LLC

REQUEST

The applicant has requested a variance to encroach approximately 33 feet into the 50-foot undisturbed buffer and an additional 25-foot impervious surface setback to allow for a future residential structure to be built on the subject property. The property is Lot 14 of Haynesbrooke subdivision, originally platted by Fulton County with a 25-foot stream buffer and an additional 10-foot no improvement setback from the point of wrested vegetation. The intent of the applicant's variance request is to create a buildable lot that would be consistent with existing residential dwellings in the Haynesbrooke development.

ADJACENT ZONING AND LAND USES

The subject property is located in the Haynesbrooke subdivision and is zoned TR Conditional (Townhouse Residential District). The property is adjacent to Woodland Hills subdivision, zoned R-4 Conditional (Single Family Dwelling District) to the east. To the west across Haynes Bridge Road is the Woodvale subdivision, zoned NUP Conditional (Neighborhood Unit Plan District). To the north, adjacent to Alvin Road, are large AG-1(Agricultural District) zoned tracts with a single family residential dwelling unit. South of the subject property is the Bellingrath Commons subdivision, zoned TR Conditional.

APPLICABLE CODE REQUIREMENTS

City Code; Chapter 109: Natural Resources & Environmental Protection; Article V: Stream Buffer Protection: Section 109-118: Land Development Requirements.

- (i) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the point of wrested vegetation.
- (ii) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.

VARIANCE REQUIREMENTS

Staff is including the specific conditions that must be considered for a variance to be granted in an effort to assist the Board of Zoning Appeals in considering the application and its merits. These considerations include:

- (i) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
- (ii) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

ADDITIONAL STREAM BUFFER CONSIDERATIONS

Stream buffers are the areas of land immediately adjacent to the banks of state waters which facilitate the protection of water quality and aquatic habitat. Buffers also preserve green space, improve aesthetics, reduce stormwater runoff velocities, help control flooding, and keep stream water cool by providing shade. These buffers must remain undisturbed in their natural state during and after construction, however variances can be obtained that allow for encroachment under certain conditions. Stream buffers are regulated on both the state and local levels and each agency has different rules regarding buffer widths. The Georgia Environmental Protection Division (EPD) requires 25 foot buffers on both sides of a stream, measured from the point of wrested vegetation which is usually located at the tops of the banks. The City of Johns Creek requires an undisturbed buffer of 50 feet with an additional 25 feet where all impervious surfaces are prohibited. Variance applications may be granted on a case by case basis provided the applicant submit information showing the location of the stream, the extent of encroachment, and documentation of the unusual hardship should the buffer be maintained. These variance applications must also provide mitigation measures to offset the impacts of land development or disturbance on the proposed property. Although allowed by ordinance, granting of stream buffer variances should be kept to a practicable minimum in order to preserve water quality and minimize flood risks from future, upstream development. The location and extent of buffer encroachment, long term water quality impacts, and potential, less intrusive alternate designs are all factors to be considered in determining whether to issue a variance. Stream Buffer Variances granted by the City of Johns Creek are subject to annual audits by the Metropolitan North Georgia Water Planning District and the EPD. The City must ensure that consistency and thorough examination to long term impacts are considered in order to justify granting variances.

RECOMMENDATION

The applicant would like to accommodate an approximately 4,666 square-foot residential dwelling on the existing lot with 1,198 square feet of the proposed dwelling located within the stream buffer. The proposed building footprint would require a 33-foot encroachment in depth into the 50-foot undisturbed buffer and an additional 25-foot impervious surface setback. The subject property was originally platted with a stream buffer of 25 feet and an additional 10-foot no improvement setback from the banks of the stream located along the northern portion of the lot.

The requested variance would be necessary to build a single-family residential dwelling consistent in form, appearance, and building size with existing residences within the development. With the adoption of the larger stream buffer standards of a 50-foot undisturbed buffer and an additional 25-foot impervious surface setback per the requirement of the Metropolitan North Georgia Water Planning District, approximately one-fourth of the proposed residential structure would be located within the stream buffer, and would present a hardship that would inhibit the applicant from building on the property without seeking a variance. The submitted site plan

illustrates that under the previous 25-foot stream buffer requirement, the proposed building could have been developed on the property without encroaching into and maintaining a sufficient setback from the stream buffer. The requested encroachment of 33 feet would not require removal of existing vegetation on the subject property, considering that the lot has been cleared and graded in anticipation for development of a residential structure, and existing trees and vegetation are located along the periphery of the subdivision. Additionally, the applicant has agreed to implement the Frawley Associates, LLC prepared revegetation/mitigation plan that was previously approved for V-10-020 (Lot 11) and V-10-021 (Lot 1). Staff notes that the applicant has provided in their letter of intent a comprehensive mitigation/impervious chart that provides a clear and concise breakdown of the amount of mitigation that is to be provided per the previously approved mitigation plan, and the total amount of impervious surface that had already been approved and is currently being requested. Review of the chart clearly shows that the revegetation/mitigation plan exceeds the total square footage of impervious surface encroachment into the stream buffer.

In light of the subject property having had the ability to construct a residential structure on the lot without a variance based on the previous 25-foot stream buffer, the proposed building footprint not having an adverse effect on existing vegetation, and the applicant's acceptance to implement the previously approved Frawley Associates, LLC prepared revegetation/mitigation plan; the Department of Community and Development recommends **APPROVAL with conditions** of this request.

The Department would note that, should the variance be granted by the Board of Zoning Appeals on the merits of this request, the prospective residential structure would be limited to the building footprint as shown on the applicant's submitted site plan.

Based upon the findings and conclusions herein, Staff recommends **APPROVAL with conditions** of this request, subject to the following conditions of approval or as may be amended by the Board of Zoning Appeals:

- 1) The encroachment of the proposed building footprint shall not exceed 33 feet in depth and 1,198 square feet of additional impervious surface into the 50-foot undisturbed buffer and additional 25-foot impervious surface setback, as shown on the site plan dated May 05, 2011. If the applicant requires additional encroachment greater than the depth and square footage referenced above, a separate variance must be submitted for consideration by the Board of Zoning Appeals.
- 2) Obtain required building permits from the City of Johns Creek Community Development Department prior to commencement of constructing a residential dwelling unit on the subject property.
- 3) As part of the building permit, the applicant is to submit a copy of the Frawley Associates, LLC prepared revegetation/mitigation plan that was provided with the variance application dated May 17, 2011. The mitigation plan must clearly depict the location, number, and plant material to be installed on the property.
- 4) The applicant is required, prior to issuance of a certificate of occupancy, to provide vegetation in the identified location within the subdivision common area, in order to offset any adverse impact associated with the proposed intrusion of additional impervious surface closer to the stream. Revegetation of the property shall be consistent with the Frawley Associates, LLC prepared revegetation/mitigation plan submitted by the applicant to the Department of Community and Development on May 17, 2011.
- 5) The exterior elevation and overall appearance of the residential dwelling unit shall be consistent with the architectural and building materials of existing residential structures in Haynesbrooke subdivision.

Aerial and Vicinity Map

